

Application No. 10/711,988
Docket No. A4-1854
Amendment dated April 25, 2006
Reply to Office Action of January 25, 2006

REMARKS

In the Office Action, the Examiner reviewed claims 1-4 and 6-20 of the above-identified US Patent Application, with the result that claim 17 was objected to, all of the claims were rejected under the judicially-created doctrine of obviousness-type double patenting as being unpatentable over claims 1-20 of commonly-assigned U.S. Patent No. 6,820,347, and independent claims 9, 15, and 17 and their dependent claims 10, 12-14, 19, and 20 were rejected under 35 USC §102 or §103. As such, claims 1-4, 6-8, 11, 16, and 18 were subjected solely to the double patenting rejection. In response:

Applicant submits herewith a terminal disclaimer under 37 CFR 1.321 that terminally disclaims that portion of any patent that issues from the above-identified application and extends beyond the termination date of U.S. Patent No. 6,820,347. Accordingly, withdrawal of the obviousness-type double patenting rejection is respectfully requested.

Applicant has amended independent claim 9 to incorporate all limitations of its dependent claim 11, which has been canceled without prejudice to Applicant. Because claim 11 was subject only to the double-patenting rejection, which Applicant believes is set aside with the enclosed terminal disclaimer, Applicant believes that claim 9 and its remaining dependent claims 10 and 12-14 are in condition for allowance.

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Applicant has amended independent claim 15 to incorporate all limitations of its dependent claim 16, which has been canceled without prejudice to Applicant. Because claim 16 was subject only to the double-patenting rejection, which Applicant believes is set aside with the enclosed terminal disclaimer, Applicant believes that claim 15 and its remaining dependent claims 18-20 are also in condition for allowance.

Claim 18, which originally depended from claim 16, has been amended to depend directly from independent claim 15 in view of the cancellation of claim 16 and the incorporation of its limitations into claim 15.

Finally, Applicant has canceled claim 17 without prejudice.

In view of the above, Applicant believes that the above amendments do not present new matter, and that the amendments strictly comply with 37 CFR §1.116(a) as being limited to reducing and simplifying the issues remaining in the examination of Applicant's application, namely, placing the claims in condition for allowance by canceling allowable dependent claims and incorporation of their subject matter into their respective parent claims.¹

¹ MPEP §714.13 instructs:

The refusal to enter the proposed [Rule 116] amendment should not be arbitrary. The proposed amendment should be given sufficient consideration to determine whether the claims are in condition for allowance and/or whether the issues on appeal are simplified. (Emphasis added.)

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Consequently, Applicant believes that the above amendments do not raise new issues that would require further consideration and/or search by the Examiner, and place the claims in better condition for appeal.

For the above reasons, Applicant believes that all issues outstanding from the Office Action have been addressed, and that the remaining claims are in condition for allowance. It is therefore respectfully requested that this patent application be given favorable reconsideration

Should the Examiner have any questions with respect to any matter now of record, Applicant's representative may be reached at (219) 462-4999.

Respectfully submitted,

By 
Gary M. Hartman
Reg. No. 33,898

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Hartman & Hartman, P.C.
Valparaiso, Indiana 46383
TEL.: (219) 462-4999
FAX: (219) 464-1166

Attachments: Terminal Disclaimer; Fee Transmittal form